

**BIRCH, STEWART, KOLASCH & BIRCH, LLP**

INTELLECTUAL PROPERTY LAW  
8110 GATEHOUSE ROAD  
SUITE 100 EAST  
FALLS CHURCH, VA 22042-1248  
USA

(703) 205-8000  
FAX: (703) 205-8050  
(703) 698-8590 (G IV)

e-mail: mailroom@bskb.com  
web: <http://www.bskb.com>

OTHER OFFICES:  
CARLSBAD, CALIFORNIA  
COSTA MESA, CALIFORNIA  
LOS ANGELES, CALIFORNIA

Date: February 19, 2004

Docket No.: 0760-0330P

**MS PATENT APPLICATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a Request for filing a ☒ continuation ☐ divisional  
☐ continuation-in-part application under 37 C.F.R. § 1.53(b) of  
pending prior Application No. 09/530,014 filed on April 24, 2000,  
the entire contents of which are hereby incorporated by  
reference,  
by

Shoichi SUZUKI

for

NUCLEIC ACID HAVING PROMOTER ACTIVITY AND TRANSFORMED PLANT  
CONTAINING THE SAME

1. ☒ Enclosed is an application consisting of specification,  
claims, declaration and drawings/photographs (if  
applicable).

2. ☒ The filing fee has been calculated as follows:

		LARGE ENTITY		SMALL ENTITY	
BASIC FEE		\$770.00		\$385.00	
NUMBER FILED	NUMBER EXTRA	RATE	FEE	RATE	FEE
TOTAL CLAIMS	26-20 = 6	x 18 =	\$108.00	x 9 =	\$0.00
INDEPENDENT CLAIMS	6-3 = 3	x 86 =	\$258.00	x 43 =	\$0.00
<input checked="" type="checkbox"/> MULTIPLE DEPENDENT CLAIMS PRESENTED		+ \$290.00		+ \$145.00	
TOTAL		\$1426.00		\$0.00	

3. ☒ A check in the amount of \$1426.00 to cover the filing fee and recording fee (if applicable) is enclosed.
4. ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this request is enclosed.
5. ☒ Enclosed is/are two (2) sheet(s) of formal drawings and/or photographs.
- 6a. ☐ A statement claiming small entity status was filed in prior Application No. 09/530,014 on \_\_\_\_\_. See the attached copy of the statement claiming small entity status.
- 6b. ☐ The current application qualifies for small entity status.
7. ☒ The prior application is assigned to Japan Tobacco, Inc.
8. ☒ A Preliminary Amendment is enclosed.
- 9a. ☐ Priority of Application No(s). \_\_\_\_\_ filed in \_\_\_\_\_ on \_\_\_\_\_ is/are claimed under 35 U.S.C. § 119. See attached copy of the Letter claiming priority filed in the prior application on \_\_\_\_\_.
- 9b. ☒ Priority of International Appln. PCT/JP99/04519 filed on August 23, 1999 under the Patent Cooperation Treaty and Japanese Application No. 253282/98 filed in JAPAN on August 24, 1998 under 35 U.S.C. § 120 and/or § 119 are hereby reclaimed.

13281 U.S. PTO  
021904

10. ☒ An Information Disclosure Statement and PTO-1449 form(s) are attached hereto for the Examiner's consideration.
11. ☒ Address all future communications to:  
  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000  
  
or  
Customer No. 02292
12. ☒ An extension of time for one (1) month(s) until February 19, 2004 has been submitted in parent Application No. 09/530,014 in order to establish co-pendency with the present application.
13. ☒ Also enclosed herewith is the following:  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Mary Anne Armstrong  
Gerald M. Murphy, Jr., #28,977

MaryAnne Armstrong, PhD., #40,069

GMM/MAA/csm  
0760-0330P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachment(s)

(Rev. 02/13/2004)